

ORDER NO. 4247

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail International Regional Rate Boxes
Contracts 1 (MC2015-31)
Negotiated Service Agreements

Docket No. CP2018-49

ORDER APPROVING ADDITIONAL PRIORITY MAIL INTERNATIONAL REGIONAL
RATE BOXES CONTRACTS 1 NEGOTIATED SERVICE AGREEMENT

(Issued November 29, 2017)

I. INTRODUCTION

The Postal Service seeks to include an additional Priority Mail International Regional Rate Boxes Contracts 1 (PMI RRB 1) agreement (Agreement) within the PMI RRB 1 product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Priority Mail International Regional Rate Boxes 1 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, November 15, 2017 (Notice).

II. BACKGROUND

Agreements included within the PMI RRB 1 product offer price incentives to mailers that use Priority Mail International Regional Rate Boxes.

On November 15, 2017, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement for the PMI RRB 1 product and requests that the Agreement be added to the existing PMI RRB 1 product. Notice at 2. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the PMI RRB 1 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Agreement is intended to take effect December 1, 2017. Notice at 3. It is set to expire November 30, 2018. *See id.*

On November 16, 2017, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.²

III. COMMENTS

The Public Representative filed comments on November 21, 2017.³ No other comments were received.

² See Docket No. CP2014-31, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, November 16, 2017.

³ Public Representative Comments on Postal Service Request to Add Priority Mail International Regional Rate Boxes Contract 1 to Competitive Product List, November 21, 2017 (PR Comments).

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the contract is expected to generate sufficient revenues to cover costs. PR Comments at 1-2.

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the PMI RRB 1 product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 2364, the Commission approved the addition of PMI RRB 1 to the competitive product list and designated an agreement as the baseline agreement for assessing the functional equivalence of agreements proposed for inclusion within the PMI RRB 1 product.⁴

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the PMI RRB 1 product. Notice at 2. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the PMI RRB 1 product. *Id.* at 3. The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms but states that prices may differ. *Id.* at 4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁵

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement;

⁴ See Docket Nos. MC2015-31 and CP2015-40, Order Adding Priority Mail International Regional Rate Boxes Contract 1 to the Competitive Product List, February 24, 2015 (Order No. 2364).

⁵ Differences include, among others, revisions to existing articles, the deletion of articles, the renumbering of several articles, and the inclusion of new articles. *Id.* at 5-6.

meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the PMI RRB 1 product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs. The addition of the Agreement to the PMI RRB 1 product will not cause cost coverage for the product to fall below 100 percent because, as the Commission found in the FY 2016 Annual Compliance Determination (ACD), the product as a whole covers its attributable costs.⁶ Consequently, the Commission finds that the addition of the Agreement to the PMI RRB 1 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the PMI RRB 1 product should allow the product to cover its attributable

⁶ Docket No. ACR2016, Annual Compliance Determination, March 28, 2017, at 78, 85-86.

costs, the Commission finds that the addition of the Agreement to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement to the PMI RRB 1 product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the PMI RRB 1 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the ACD to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The Agreement is intended to take effect December 1, 2017. Notice at 3. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement. It is set to expire November 30, 2018. See *id.* If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2018-49 is included within the Priority Mail International Regional Rate Boxes 1 (MC2015-31) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement.

3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Ruth Ann Abrams
Acting Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.11 Priority Mail International Regional Boxes Contracts

2510.11.8 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Priority Mail International Regional Rate Boxes Contracts 1

Baseline Reference

Docket Nos. MC2015-31 and CP2015-40

PRC Order No. 2364, February 24, 2015

Included Agreements

CP2018-49, expires November 30, 2018
